

AMENDED IN SENATE APRIL 4, 2016

**SENATE BILL**

**No. 1338**

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**Introduced by Senator Lara**

February 19, 2016

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An act to add Section 6377.5 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1338, as amended, Lara. Sales and use taxes: exemption: zero-emission and near-zero-emission equipment.

Existing sales and use tax laws impose a tax on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state, or on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this state, and provides various exemptions from those taxes.

The bill would exempt from those taxes, on and after January 1, 2017, and before January 1, 2030, the gross receipts from the sale of, and the storage, use, or other consumption of, qualified tangible personal property purchased by a qualified person, as defined, for use primarily in, at, or on a marine terminal or qualified tangible personal property used primarily to maintain, repair, or test the above-described equipment, as provided. The bill would require the purchaser to furnish the retailer with an exemption certificate, as specified.

The Bradley-Burns Uniform Local Sales and Use Tax Law authorizes counties and cities to impose local sales and use taxes in conformity with the Sales and Use Tax Law, and existing law authorizes districts, as specified, to impose transactions and use taxes in conformity with the Transactions and Use Tax Law, which conforms to the Sales and

Use Tax Law. Exemptions from state sales and use taxes are incorporated into these laws.

This bill would specify that this exemption does not apply to local sales and use taxes, transactions and use taxes, and specified state taxes from which revenues are deposited into the Local Public Safety Fund, the Education Protection Account, the Local Revenue Fund, or the Local Revenue Fund 2011.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. (a) The Legislature finds and declares:
- 2     (1) California's complex freight transportation system is
- 3     responsible for one-third of the state's economy and jobs, with
- 4     freight-dependent industries accounting for over \$700 billion in
- 5     revenue and over 5 million jobs in 2013, and is home to the largest
- 6     gateway for international trade and domestic commerce in the
- 7     nation, with an interconnected system of ports, railroads, highways,
- 8     and roads that allow goods from around the world to move
- 9     throughout the state.
- 10    (2) Significant investments in freight infrastructure are necessary
- 11    to ensure the continued economic competitiveness of our state's
- 12    seaports and to deploy zero-emission and near-zero-emission
- 13    equipment. There are additional expenses that accompany
- 14    investment in the next generation of zero-emission and
- 15    near-zero-emission equipment and supporting infrastructure at
- 16    marine terminals in California's public ports.
- 17    (3) The primary purpose of this act is to encourage the
- 18    development and growth of investment in, and subsequent
- 19    increased use of, California's public port facilities and the
- 20    introduction of zero-emission and near-zero-emission equipment
- 21    and supporting infrastructure at California's public port facilities.
- 22    (4) This legislation is necessary to further incentivize the earliest
- 23    possible investment in and adoption of zero-emission and
- 24    near-zero-emission technology at California's public seaports.
- 25    Companies should be encouraged to take on the additional costs
- 26    of purchasing and maintaining zero-emission equipment and
- 27    supporting infrastructure in partnership with the state to achieve

the state’s emission reduction goals by reducing those state taxes which would increase the ultimate cost of these new equipment and infrastructure investments.

(b) It is the intent of the Legislature to incentivize the earliest possible adoption of zero-emissions technology at California’s public seaports and to eliminate taxes imposed on the purchase of that equipment that further increase the costs of purchasing and maintaining zero-emission equipment and supporting infrastructure, which are already of significantly greater expense than conventional equipment and infrastructure.

SEC. 2. Section 6377.5 is added to the Revenue and Taxation Code, to read:

6377.5. (a) On or after January 1, 2017, and before January 1, 2030, there are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage, use, or other consumption in this state of, any of the following:

(1) Qualified tangible personal property purchased for use by a qualified person to be used primarily in, at, or on a marine terminal of a California public port for carriage, handling, or movement of freight, cargo, and goods.

(2) Qualified tangible personal property purchased for use by a qualified person to be used primarily to maintain, repair, measure, or test any qualified tangible personal property described in paragraph (1).

(b) For purposes of this section:

(1) “Primarily” means 50 percent or more of the time.

(2) “Qualified person” means a person that is a stevedore, marine terminal operator, operator of a port or freight yard, or any other person that is engaged in cargo and freight loading, delivery, movement, storage, and conveyance at or within a California public seaport.

(3) “Qualified tangible personal property” ~~includes, but is not limited to, all~~ *includes both* of the following:

(A) All zero-emission or near-zero-emission equipment used ~~or required to operate, control, regulate, or maintain in conjunction with~~ the movement of goods or freight, including, but not limited to, computers, data-processing equipment, and computer software, ~~required to operate, control, regulate, or maintain the zero-emission or near-zero-emission equipment,~~ together with all repair and replacement parts with a useful life of one or more years

1 therefor, whether purchased separately or in conjunction with the  
2 equipment and regardless of whether the machine or component  
3 parts are assembled by the qualified person or another party.

4 ~~(B) All marine terminal equipment used in pollution control~~  
5 ~~that meets standards established by this state or any local or~~  
6 ~~regional governmental agency within this state and all marine~~  
7 ~~terminal equipment that exceeds existing standards established by~~  
8 ~~the state.~~

9 ~~(C)~~

10 (B) Special purpose buildings and foundations used as an  
11 integral part of the process of utilization of zero-emission  
12 equipment or near-zero-emission equipment constitute qualified  
13 tangible personal property to the extent that the sale of, or storage,  
14 use, or other consumption is subject to the imposition of sales or  
15 use tax.

16 (4) “Zero-emission or near-zero-emission equipment” means  
17 equipment, vehicles, and related technologies used at a California  
18 public seaport that reduce or eliminate greenhouse gas emissions  
19 and improve air quality when compared with conventional or fully  
20 commercialized alternatives, as identified by the State Air  
21 Resources Board in consultation with the State Energy Resources  
22 Conservation and Development Commission. “Zero-emission and  
23 ~~near-zero-emission~~ *near-zero-emission* equipment” may include,  
24 but is not limited to, enabling technologies that provide a pathway  
25 to ~~emissions~~ *emission* reductions, advanced or alternative fuel  
26 engines, and hybrid or alternative fuel technologies for seaport  
27 equipment.

28 (c) An exemption shall not be allowed under this section unless  
29 the purchaser furnishes the retailer with an exemption certificate,  
30 completed in accordance with any instructions or regulations as  
31 the board may prescribe, and the retailer retains the exemption  
32 certificate in its records and furnishes it to the board upon request.

33 (d) (1) Notwithstanding the Bradley-Burns Uniform Local Sales  
34 and Use Tax Law (Part 1.5 (commencing with Section 7200)) and  
35 the Transactions and Use Tax Law (Part 1.6 (commencing with  
36 Section 7251)), the exemption established by this section shall not  
37 apply with respect to any tax levied by a county, city, or district  
38 pursuant to, or in accordance with, either of those laws.

39 (2) Notwithstanding subdivision (a), the exemption established  
40 by this section shall not apply with respect to any tax levied

1 pursuant to Section ~~6051.2~~, 6051.2 or 6201.2, pursuant to Sections  
2 35 and 36 of Article XIII of the California Constitution, or any tax  
3 levied pursuant to Sections 6051 or 6201 that is deposited in the  
4 State Treasury to the credit of the Local Revenue Fund 2011  
5 pursuant to Sections 6051.15 or 6201.15.

6 (e) Notwithstanding subdivision (a), the exemption provided  
7 by this section shall not apply to any sale or storage, use, or other  
8 consumption of property that, within one year from the date of  
9 purchase, is removed from California, converted from an exempt  
10 use under subdivision (a) to some other use not qualifying for  
11 exemption, or otherwise used in a manner not qualifying for  
12 exemption.

13 (f) This section shall apply to leases of qualified tangible  
14 personal property classified as “continuing sales” and “continuing  
15 purchases” in accordance with Sections 6006.1 and 6010.1. The  
16 exemption established by this section shall apply to the rentals  
17 payable pursuant to the lease, provided the lessee is a qualified  
18 person and the tangible personal property is qualified tangible  
19 personal property used in an activity described in subdivision (a).

20 (g) (1) Upon the effective date of this section, the Department  
21 of Finance shall estimate the total dollar amount of exemptions  
22 that will be taken for each calendar year, or any portion thereof,  
23 for which this section provides an exemption.

24 (2) No later than each March 1 next following a calendar year  
25 for which this section provides an exemption, the board shall  
26 provide to the Joint Legislative Budget Committee a report of the  
27 total dollar amount of exemptions taken under this section for the  
28 immediately preceding calendar year. The report shall compare  
29 the total dollar amount of exemptions taken under this section for  
30 that calendar year with the department’s estimate for that same  
31 calendar year. If that total dollar amount taken is less than the  
32 estimate for that calendar year, the report shall identify options for  
33 increasing exemptions taken so as to meet estimated amounts.

34 SEC. 3. This act provides for a tax levy within the meaning of  
35 Article IV of the Constitution and shall go into immediate effect.